

1 original jurisdiction of all civil actions arising under the laws of the United States. See Mims v.
2 Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3 3. Defendant regularly conducts business in the State of New Jersey therefore
4 personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6 **PARTIES**

7 5. Plaintiff is a natural person residing in Marlton, New Jersey 08053.

8 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

9 7. Defendant is a corporation with its principal place of business located at Bank of
10 America Corporation Center, Suite 220, Charlotte, NC 28255.

11 8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

12 9. Defendant acted through its agents, employees, officers, members, directors,
13 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.
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15 **FACTUAL ALLEGATIONS**

16 10. Plaintiff has a cellular telephone.

17 11. Plaintiff has only used this phone as a cellular telephone.

18 12. Beginning in or around November 2017 and continuing through in or December
19 2017, Defendant placed repeated harassing telephone calls to Plaintiff’s cellular telephone,
20 typically calling Plaintiff multiple times each day.

21 13. During this time Defendant contacted Plaintiff using an automated telephone
22 dialing system and/or pre-recorded voice.
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1 24. Defendant's acts as described above were done with malicious, intentional,
2 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
3 purpose of harassing Plaintiff.

4 25. The acts and/or omissions of Defendant were done unfairly, unlawfully,
5 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal
6 defense, legal justification or legal excuse.

7 26. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
8 and damages as set forth above entitling Plaintiff to an award of statutory, actual and treble
9 damages.

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11 WHEREFORE, Plaintiff, BRANDON MCCARTY, respectfully prays for judgment as
12 follows:
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- 14 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
15 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
16 15 U.S.C. § 1692k(a)(2)(A);
17 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
18 costs, pursuant to 15 U.S.C. § 1693k(a)(3);
19 d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
20 e. Statutory damages of \$500.00 per violative telephone call pursuant to 47
21 U.S.C. § 227(b)(3)(B);
22 f. Treble damages of \$1,500.00 per violative telephone call pursuant to 47
23 U.S.C. § 227(b)(3);
24 g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
25

1 h. Any other relief deemed appropriate by this Honorable Court.

2 **DEMAND FOR JURY TRIAL**

3 PLEASE TAKE NOTICE that Plaintiff, BRANDON MCCARTY, demands a jury trial
4 in this case.

5 **CERTIFICATION PURSUANT TO L.CIV.R.11.2**

6 I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not
7 subject to any other action pending in any court, arbitration or administrative proceeding.

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9 Respectfully submitted,

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11 Dated: 1/11/19

/s/ Amy L. Bennecoff Ginsburg
Amy L. Bennecoff Ginsburg
Kimmel & Silverman, P.C.
30 East Butler Pike
Ambler, Pennsylvania 19002
Phone: (215) 540-8888
Facsimile: (877) 788-2864
Email: aginsburg@creditlaw.com